

**Before the
Federal Communications Commission
Washington, D.C. 20554**

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| In re Application of |) | |
| |) | NAL/Acct. No. MB-202141410063. |
| Birach Broadcasting Corporation |) | FRN: 0003766847 |
| |) | |
| To Renew the Licenses of |) | Facility ID Nos. 34988, 202938 |
| KTUV(AM), Little Rock, Arkansas, and |) | Application File No. 0000101513 |
| K260DT, Little Rock, Arkansas |) | |

FORFEITURE ORDER

Adopted: May 23, 2022

Released: May 23, 2022

By the Chief, Audio Division, Media Bureau:

I. INTRODUCTION

1. In this *Forfeiture Order*, the Media Bureau (Bureau) issues a monetary forfeiture to Birach Broadcasting Corporation (Birach) in the amount of seventeen thousand five hundred dollars (\$17,500). The forfeiture stems from our determination that Birach (1) willfully violated section 73.1740(a)(4) of the Commission's Rules (Rules)¹ by discontinuing operation of KTUV(AM), Little Rock, Arkansas, without timely requesting special temporary authority (STA); (2) willfully violated section 74.1263(c) of the Commission's Rules (Rules)² by discontinuing operation of K260DT, Little Rock, Arkansas, without timely requesting special temporary authority (STA); (3) willfully and repeatedly violated section 73.3526 of the Rules by failing to upload or failing to timely upload materials to the KTUV(AM) online public inspection file (OPIF);³ and (4) violated section 1.65 of the Rules by failing to update certifications made in an application to renew the licenses of KTUV(AM) and K260DT (Application).⁴

II. BACKGROUND

2. On January 29, 2020, Birach filed the Application. Therein, Birach certified that (1) with respect to the KTUV(AM) and K260DT, during the preceding license term, there had been "no violations by the licensee of the Communications Act of 1934, as amended, or the rules or regulations of the Commission;" (2) neither KTUV(AM) nor K260DT had "been silent (or operating for less than its prescribed minimum operating hours) for any period of more than 30 days" during the preceding license term; and (3) KTUV(AM) and K260DT were "currently on the air broadcasting programming intended to be received by the public."⁵

3. Subsequently, on March 6, 2020, KTUV(AM) went silent due to the "catastrophic failure of its transmitter." Because KTUV(AM) had gone silent, K260DT also went off the air. When the KTUV(AM) and K260DT silences extended beyond 10 days, Birach should have notified the Commission. It did not. When the silences extended beyond 30 days, Birach should have requested STA

¹ See 47 CFR § 73.1740(a)(4).

² See 47 CFR § 74.1263(c).

³ See *id.* § 73.3526

⁴ See *id.* § 1.65.

⁵ Application File No. 0000101513 at Renewal Certification, FCC Violations During the Preceding License Term Section; and AM/FM/LPFM Certification, Adherence to Minimum Operating Schedule and Silent Station Sections.

for KTUV(AM) and K260DT to remain silent. It did not. Instead, the KTUV(AM) and K260DT silences were brought to our attention when we received Informal Objections to the Application in May and June of 2020.⁶

4. Based on the evidence before us, and our review of the Application and the KTUV(AM) OPIF, we released a *Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture (NAL)* that proposed a forfeiture of seventeen thousand five hundred dollars (\$17,500) in relation to the unauthorized periods of silence at both KTUV(AM) and K260DT, Birach's failure to properly maintain the KTUV(AM) OPIF, and its failure to maintain the completeness and accuracy of certifications made in the Application.⁷ The *NAL* gave Birach thirty days to pay the full amount of the proposed forfeiture, or file a written statement seeking reduction or cancellation of the proposed forfeiture.⁸ To date, Birach has neither paid the proposed forfeiture nor filed a written statement in response to the *NAL*.

III. DISCUSSION

5. The forfeiture amount proposed in this case was assessed in accordance with section 503(b) of the Communications Act of 1934, as amended (the Act),⁹ section 1.80 of the Rules,¹⁰ and the Commission's Forfeiture *Policy Statement*.¹¹ In assessing forfeitures, section 503(b)(2)(E) of the Act requires that we take into account the nature, circumstances, extent, and gravity of the violation, and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.¹²

6. We conclude that Birach willfully violated sections 73.1740(a)(4), 74.1263(c), 73.3526, and 1.65 of the Rules. We therefore issue a forfeiture in the amount of seventeen thousand five hundred dollars (\$17,500) as proposed in the *NAL*.

IV. ORDERING CLAUSES

7. Accordingly, **IT IS ORDERED**, pursuant to section 503(b) of the Communications Act of 1934, as amended, and Section 1.80 of the Commission's rules, that Birach Broadcasting Corporation, **SHALL FORFEIT** to the United States the sum of seventeen thousand five hundred dollars (\$17,500) for its willful violations of sections 73.1740(a)(4), 74.1263(c), 73.3526, and 1.65 of the Commission's rules.

8. Payment of the forfeiture must be made by credit card, ACH (Automated Clearing House) debit from a bank account using CORES (the Commission's online payment system),¹³ or by wire transfer. Payments by check or money order to pay a forfeiture are no longer accepted. Below are instructions that payors should follow based on the form of payment selected:¹⁴

⁶ Informal Objection, Pleading File No. 0000114089, at paras. 4, 5; Informal Objection, Pleading File No. 0000116632, at 4.

⁷ *Birach Broad. Corp.*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, DA 21-1618 (MB Dec. 27, 2021).

⁸ *Id.* at para. 20.

⁹ 47 U.S.C. § 503(b).

¹⁰ 47 CFR § 1.80.

¹¹ *Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, Report and Order, 12 FCC Rcd 17087 (1997), *recon. denied*, 15 FCC Rcd 303 (1999).

¹² 47 U.S.C. § 503(b)(2)(E).

¹³ Payments made using CORES do not require the submission of an FCC Form 159.

¹⁴ For questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone at 1-877-480-3201 (option #6), or by e-mail at ARINQUIRIES@fcc.gov.

- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. A completed Form 159 must be faxed to the Federal Communications Commission at 202-418-2843 or e-mailed to RROGWireFaxes@fcc.gov on the same business day the wire transfer is initiated. Failure to provide all required information in Form 159 may result in payment not being recognized as having been received. When completing FCC Form 159, enter the Account Number in block number 23A (call sign/other ID), enter the letters “FORF” in block number 24A (payment type code), and enter in block number 11 the FRN(s) captioned above (Payor FRN).¹⁵ For additional detail and wire transfer instructions, go to <https://www.fcc.gov/licensing-databases/fees/wire-transfer>.
- Payment by credit card must be made by using the Commission’s Registration System (CORES) at <https://apps.fcc.gov/cores/userLogin.do>. To pay by credit card, log-in using the FCC Username associated to the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select “Manage Existing FRNs | FRN Financial | Bills & Fees” from the CORES Menu, then select FRN Financial and the view/make payments option next to the FRN. Select the “Open Bills” tab and find the bill number associated with the NAL/Acct. No. The bill number is the NAL Acct. No. (e.g., NAL/Acct. No. 1912345678 would be associated with FCC Bill Number 1912345678). After selecting the bill for payment, choose the “Pay by Credit Card” option. Please note that there is a \$24,999.99 limit on credit card transactions.
- Payment by ACH must be made by using the Commission’s Registration System (CORES) at <https://apps.fcc.gov/cores/paymentFrnLogin.do>. To pay by ACH, log in using the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select “Manage Existing FRNs | FRN Financial | Bills & Fees” on the CORES Menu, then select FRN Financial and the view/make payments option next to the FRN. Select the “Open Bills” tab and find the bill number associated with the NAL/Acct. No. The bill number is the NAL/Acct. No. (e.g., NAL/Acct. No. 1912345678 would be associated with FCC Bill Number 1912345678). Finally, choose the “Pay from Bank Account” option. Please contact the appropriate financial institution to confirm the correct Routing Number and the correct account number from which payment will be made and verify with that financial institution that the designated account has authorization to accept ACH transactions.

9. **IT IS FURTHER ORDERED** that copies of this *Forfeiture Order* shall be sent, by First Class and Certified Mail, Return Receipt Requested, Birach Broadcasting Corporation, c/o Sima Birach, President, 21700 Northwestern Highway, Tower 14, Suite 1190, Southfield, MI 48075, and its counsel, John C. Trent, Esq., Putbren Hunsaker & Trent, P.C., 200 S. Church Street, Woodstock, VA 22661.

FEDERAL COMMUNICATIONS COMMISSION

Albert Shuldiner
Chief, Audio Division
Media Bureau

¹⁵ Instructions for completing the form may be obtained at <https://www.fcc.gov/Forms/Form159/159.pdf>.